

1907-02^e Chancery Causes: Andrew Ely & vs Robert Ely &
Lee Co.

Gary, Snodgrass, Edds

1 Plat

Ch. Estate Dispute
T. Property

To the Honorable H.A.W.Skeen, Judge of the Circuit Court of Lee County, Virginia:

Humbly complaining your Complainants Andrew Ely, Patton Ely, and Elizabeth Jane Ely, would respectfully represent and show unto your Honor that one Joseph M.Ely Jr. on the ___ day of _____, 190__ departed this life intestate leaving Elizabeth Jane Ely, his widow Patton Ely, Charles Ely, Susan Ely, Elizabeth Ely, Eliza Yeary, nee Ely, Cynthia Snodgrass, nee Ely, Charity Edds, nee Ely, Andrew Ely, Robert Ely, Reuben Ely, children and heirs at law; that said Joseph M. Ely at the time of his death was seized and possessed of a tract of land situated in Lee County, Virginia, south of Ewing, containing about 75 acres, and bounded by the lands of Joe Yeary and others.

Your Complainants allege that said lands have never been partitioned among the parties entitled thereto, nor has dower been assigned to the said widow.

Your complainant Patton Ely alleges that he is the owner of six-tenths of said tract of land, having purchased the undivided interests of Charles Ely, Susan Ely, Elizabeth Ely, Eliza Yeary and Cynthia Snodgrass, and he further alleges that Andrew Ely owns two-tenths of said tract, he having purchased the undivided interests of Charity Edds, and that said Robert Ely owns one-tenth of said tract, and Reuben Ely owns one-tenth of said tract, and that they are both infants under the age of twenty-one years.

The prayer, therefore of your complainants is that the said Robert Ely and Reuben Ely be made parties defendant to this bill; that a guardian ad litem be appointed to answer for them, they being infants; that commissioners be appointed to partition the tract of land above referred to, and that they lay off and assign to your Complainant Patton Ely in one body, his said sixth-tenths, and that they lay off and assign to your complainant Andrew Ely his said two-tenths, in one body, and that they lay off and assign to Robert Ely and Reuben Ely a one-tenth each, in one body, and that said Commissioners assign to your Complainant Elizabeth Jane

Ely, her dower in said tract of land, including the mansion house,
so as to rest on each share proportionately; and for all other and
further relief generally as the nature of their case may require
or to equity may seem meet, and they will ever pray &c.

M. G. Ely, P.Q.

^{Ely}
Andrew Ely et al
vs. Billinchaney
Probert Ely et al -

1907 1st February Rules

Bill filed Sp. -
^{Def'ts being unopposed}
not executed, ^{was}

G. R. filed & D. N.

1907 2nd February Rules
taken on 4th Monday

D. N. Confirmed &
cause set for hear-
ing

In the Circuit Court for the County of Lee,
to-wit:

THE ANSWER OF Robert Ely, Reuben Ely.

infants under the age of twenty-one years, by James W. Orr
guardian ad litem, assigned to defend them in this suit, to a bill of complaint exhibited against
them and others in the Circuit Court for the County of
Lee, by Patton Ely and others.

The respondent, reserving to themselves the benefit of all just exceptions to the said bill, for
answer thereto, answering by said guardian ad litem, say that they are infants of
tender years, and by reason of such disability are incapable of understanding, or of
taking care of their rights and interests, They therefore commend the same
to the protection of the court, and prays that no decree may be pronounced which will tend
to their prejudice.

And having answered, the respondent pray to be hence dismissed with Their
reasonable costs, in this behalf expended; and they will ever pray, &c.

James W. Orr Guardian ad litem.

p. d.

County
Lee. } ss.

This day, James W. Orr, whose name is signed to
the foregoing answer, personally appeared before me, M. Y. Ely, com. in lity
and made oath that the statements made therein, so far as they depend upon his own knowl-
edge, are true, and so far as they depend upon knowledge derived from others he believes them
to be true.

Given under my hand, this 4th day of Feb 1907,

M. Y. Ely
Com. in lity

Robert Ely et al.

adv. }

ANSWER
OF
INFANT DEFENDANT.

Patton Ely et al. -

Filed February 4, 1907.
H. B. J. Ewing,
Clerk.

G. C. L. Fee \$5⁰⁰

Andrew Ely and others, Plaintiffs,

Against) In Chancery,

Robert Ely and others, Defendants,

This cause came on this day to be heard upon the papers formerly read in the cause the report of the commissioners, who partitioned the said land described in the said bill, and was argued by counsel:

On consideration of which said report is approved and confirmed, and the said parties to this suit will take and hold the interests assigned them by metes and bounds, as shown in said report and plat filed therewith, and the parties in interest may have said report and decrees in said cause recorded, in the County Clerk's office, and the costs of this suit shall be paid by the parties in interest in proportion to their interests, and nothing further remaining to be done this cause is stricken from the docket.

Virginia, Lee County, to-wit:

In the Clerk's office of Lee County, on this the 26th day of September, 1907, ~~xxxxxxx~~ the foregoing decrees, commissioners' report and plat were presented, and admitted to record.

Teste: _____, Clerk.

Andrew Ely et al.

vs Deere

Robert Ely et al.

Entered in C.O.B.

#8, page 315

Recorded in Deed

Book 46, page 246*

Examined Oct 17, 1907

Indexed

Enter this

H. C. W. Simon

Sept. 17th 1907-

Andrew Ely et al. Plff-
against $\frac{1}{2}$ In Chancery
Robert Ely et al. Defendants.

This cause came on this day to be
heard upon the bill of complainants
the answer of J. W. Orr. Guardian ad. litem
for the infant defendants, duly sworn to, and
general replication thereto and was
argued by counsel.

on consideration of which, the court,
doth, adjudge, order and decree that M. M. Sparks-
G. H. Smith and S. E. Thompson, who are
herby appointed Commissioners for the
purpose, after being duly sworn, will go
upon the lands of which Joseph M. Ely Jr said
seized and possessed, and lay off and assign
to Patton Ely six-tenths of said tract
of land in one tract, being his share and
five shares he has purchased. They will lay
off and assign to Andrew Ely two-tenths
of said Tract, his own and one he has purchased
~~in the same tract.~~
they will lay off and assign to Robert Ely one-
tenth, and Newben Ely one-tenth, these two
shares adjoining if practicable, and have

due regard to quantity and quality,
timber water ways etc, they will
also lay off and assign to the lots widow
of ~~James~~ M. Ely & see, her dower in said
land being one-third in rental value,
said dower to vest proportionately on all
the shares to be assigned, they will
report to Court and the cause
is continued.

André & Fols Deft

vs
Ely & dower

Robert Ely et al Deft

Entered in 2018.

#8, page 259 re-

Recorded in Deed

Book 46, page 243

Examined Dec 17, 1907
Indexed

Entered this

W. C. S. S. S. S.

Feb. 19th 1907-

Virginia,

At a Circuit Court continued and held for Lee County, at the Court-house thereof, on Tuesday, the 19th day of February, 1907.

Andrew Ely, et al, Pliffs.

Vs) In Chancery

Robert Ely, et al, Defts.

This cause came on this day to be heard upon the bill of complainants, the answer of J. W. Orr, Guardian ad litem for the infant defendants, duly sworn to, and general replication thereto and was argued by counsel.

On consideration of which, the court doth adjudge, order and decree that M. M. Speak, G. F. Smith and S. E. Thompaon, who are hereby appointed Commissioners for the purpose, after being duly sworn, will go upon the lands of which Joseph M. Ely, Jr. died seized and possessed, and lay off and assign to Patton Ely six-tenths of said tract of land, in one tract, being his share and five shares he has purchased; they will lay off and assign to Andrew Ely two tenths of said tract, in one tract being his own share and one he has purchased and they will lay off and assign to Robert Ely one-tenth, ^{and Reuben Ely one-tenth} these two shares adjoining, if practicable, and have due regard to quality and quantity, timber, water ways &c. They will also lay off and assign to the widow of the late Joseph M. Ely, deceased, her dower in said land being one-third in rental value, said dower to rest proportionately on all the shares to be assigned. They will report to Court and the cause is continued.

A copy,

Teste: H. C. J. Ewing, Clerk.

Andrew Ely et al
vs. Deere

Robert Ely et al

Copy for return.

Executed By
Serving three
copy march
the 7/407

J. M. Ball
SLL

Fee \$1.50

23.25
28.62

51.87
9

11/46683
42.44
8

34.44

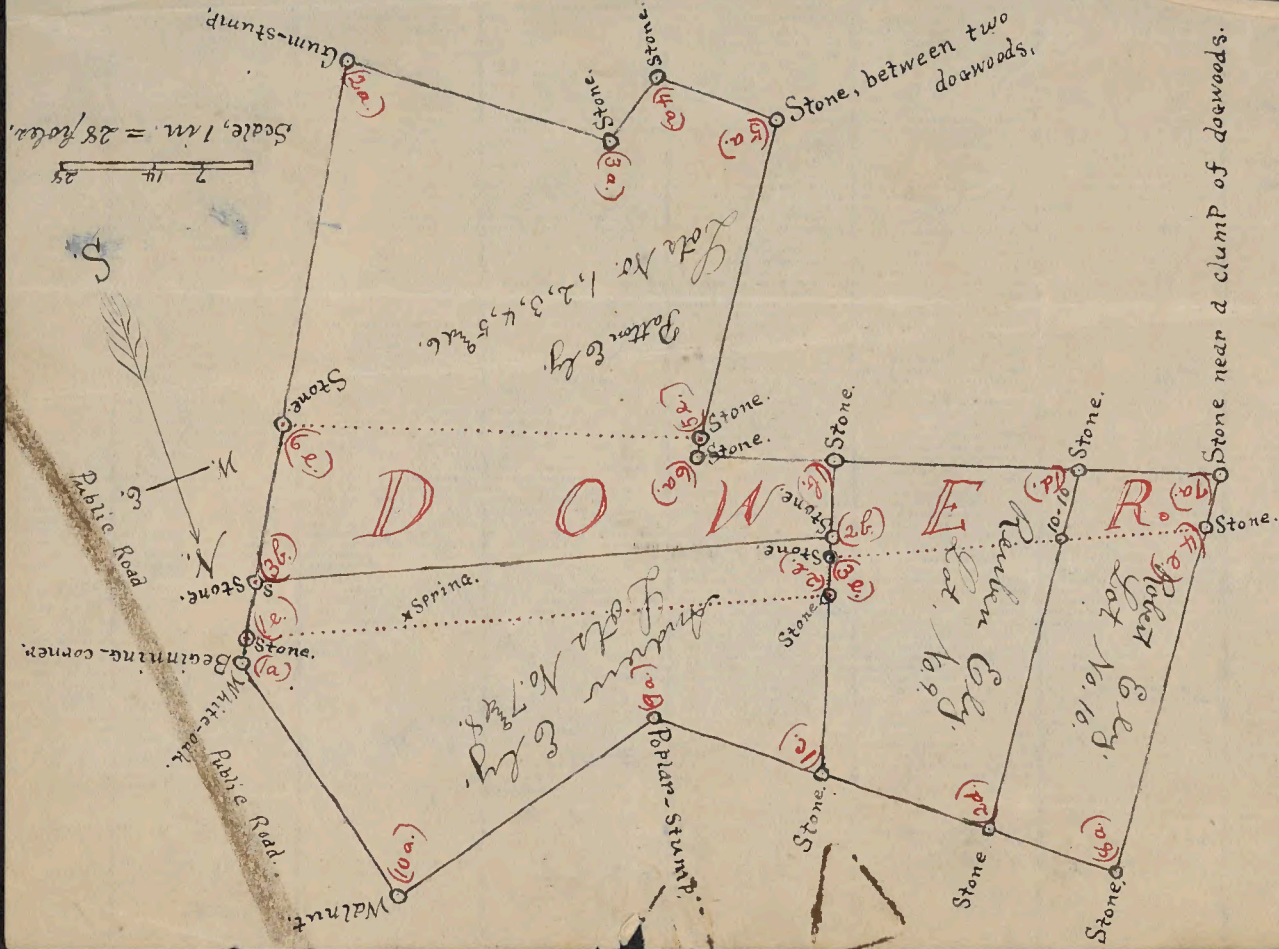
51.87

2
11/10374
9.44

I, H. C. Bales a justice of the
peace do hereby certify that
M. M. Speak, S. F. Smith and
S. E. Thompson, Commissioners
and Sam. Lawton and Mack
Ely chairmen, were duly
sworn by me, in regard
to their respective duties in
the partitioning of the lands
of Joseph M. Ely's (decd) estate.
Given under my hand
This the 21st day of March 1907

H. C. Bales, J. P.

My cost is \$1.25



COMMISSIONER'S REPORT.

Andrew Ely, et al., Ptfes.)
 Vs. IN Chancery)
 Robert Ely, et al., Dfts.)

TO THE HONORABLE H. A. W. Skeen, Judge of the Circuit Court
of Lee County, Virginia:---

The Undersigned, who were, by a decree rendered by your Honor in the above styled cause, on the 19th day of February, 1907, appointed commissioners for the purpose and directed to go upon the lands in the Bill mentioned, it being the lands of Joseph M. Ely, Jr., deceased, and partition and lay off the same among those entitled thereto, beg leave to report as follows:--

That, pursuant to said decree, we did go upon the said lands on the 21st day of March, 1901, (and subsequent days) and after having first surveyed the entire boundary, which is correctly represented by the plat hereto attached and is bounded as follows:

"BEGINNING" at a large white-oak (1a), a corner to the Fugate land: Then, S.29 W. 39 po. to a gum stump (2a) on top of a ridge: Then, N.54 W. 40 po. to a stone (3a): Then, S.55 W.11 po. and 10 lks. to a stone (4a): Then, N.51 W. 18 po. and 5 lks. to a stone (5a) Then, N.32-1/2 E.51 po. to a stone (6a): Then N.69 W.77 po. to a stone (7a) in Yeary's line--said stone is near to, and a little west of a clump of dogwoods. Then with Yeary's line N.34-4/10 E.30 po. to a stone (8a) in said line: Then, S.52 E. 71 po. to a poplar stump (9a) on a hill-side: Then, N.75-1/2 E.45 po. to a walnut (10a): Then, S.14-1/2 E. 40 po. and 15 lks. to the "BEGINNING."---Containing 60.39 Acres, more or less.

We then proceeded to partition and lay off the same to those entitled thereto, as follows, to-wit:

To Patton Ely we assigned lots No.1,2,3,4,5 and 6, all in one body, and bounded as follows:

"BEGINNING" at a gum stump (2a) on top of a ridge, a corner to the original survey: Then, N.54 W.40 po. to a stone (3a): Then, S.55 W.11 po. and 10 lks. to a stone (4a): Then, N.51 W.18 po. and 5 lks. to a stone (5a): Then, N.32-1/2 E.51 po. to a stone (6a): Then, N.69 W.20 po. to a stone (1b), a corner to Lot

No. 9: Then, N.21-1/2 E.10 po. and 15 lks. to a stone (2b), a corner to lots 7 and 8: Then with a line of same S.75-1/4 E.84 po. to a small bluff (3b) in Fugate's line, said bluff a corner of Lots 7 and 8: Then, with Fugate's line S.29 W.77 po. to the "BEGINNING," Containing 27.6 Acres, more or less.

To Andrew Ely we assigned Lots No. 7 and 8, all in one body and bounded as follows:--Beginning at a large white-oak, (1a) a corner to the Fugate land; also a corner to the original tract: Then, with the Fugate line S.29 W. 12 po. to the west edge of a small bluff (3b) on a north hill-side; said bluff a corner to Patton Ely's six lots: Then, with a line of same N.75-1/4 W.84 po. to a stone (2b) in a line of share of No.9, said stone a ~~corner~~ to Patton Ely's lots: Then, with a line of No.9, N.21-1/2, E. 34 po. and 15 lks. to a stone (1c) in Mac Ely's line: Then, S.52 E. 25 po. and 15 lks. to a poplar stump (9a) on a hill-side: ~~Then~~, N.74-1/2 E.45 po. to a walnut (10a): Then S.14-1/2 E. 40po. and 15 lks. to the Beginning, containing 16.9 Acres, more or less.

To Reuben Ely we assigned lot No.9, which is bounded as follows: Beginning at a stone (1b), a ~~corner~~ to Patton Ely's shares: Then N.69 W. 37 po. to a stone (1d), a corner to lot No.10, and with

a line of same N.34-4/10E. 54 po. and 10 lks. to a stone (2d) in Mac Ely's line, said stone a corner to lot No.10: Then with said line S.52 E. 25 po. and 15 lks. to a stone (1c) in said line, said stone a corner to lots No. 7 and 8: Then with a line of 7 and 8 S.21-1/2 W. 45 po. and 5 lks. to the Beginning (1b), containing 9.48 Acres, more or less.

To Robert Ely we assigned lot No.10, which is bounded as follows: Beginning at a stone (7a) in Yeary's line, said stone is near a clump of dogwoods: Then, with Yeary's line N.34-4/10E.60 po. to a stone (8a) in said line, said stone a corner to Mac Ely's land: Then, with a line of said Ely's land S.52 E. 19 po. and 15 lks. to a stone (2d) in said line, said stone a corner to lot No.9: Then with a line of No.9, S.34-4/10 W. 54 po. and 10 lks. to a stone, (1d) another corner to No.9: Then, S.69 W. 20 po. to the Beginning (7a), containing 6.91 Acres, more or less.

To the widow of Joseph M. Ely, Jr., we assigned one-third (in rental value) of the entire tract--said one-third (Dower) is bounded as follows:--Beginning at a stone (1e) in Fugate's line, 3 po. south-west of a large white-oak, said white-oak is the beginning corner of the original tract: Then, N.75-1/4 W. 84 po. and

12 lks. to a stone (2e) in a line of lot No.9, and with said line S.21-1/2 W 4 po. and 23 lks. to stone (3e) in a hollow in said line: Then, N.75-1/4 W.56 po., crossing lots No.9 and No.10 to a stone (4e) in Yeary's line: Then, with Yeary's line S.34-4/10 W.8 po. to a stone (7a) near a clump of dogwoods, said stone a corner to lot No.10: Then, S.39 E.77 po. to a stone (6a) a corner to Patton Ely's six lots: Then, S.32-1/2 W. 3 po. to a stone ((5e)): Then S.69 E.60 po. and 15 lks. to a stone (6e) in Fugate's line: Then, N.29 E.38 po. to the Beginning (1e).

Reference is here made to the map or plat of said land attached to this report, showing the boundaries of the entire tract, as well as the boundaries of each of the lots laid off and assigned to the several parties entitled to an interest in said land, and said map or plat is asked to be accepted as part of this report.

PRIVILEGES, REQUIREMENTS, ETC.

Sec. I

Robert Ely is to have the privilege of passing over lot No.9 to a stone (2e) in a line of No.9, said stone being a corner to the dower, then along the dower line S.75-1/4 E. on Andrew Ely's two lots to a point near the spring, and then with the route Andrew may use himself in order to reach the public road.

Reuben Ely is to have the same privilege and route over Andrew Ely's two lots to reach the public road, that we have allowed to Robert Ely.

Sec. II

Patton Ely is to have the privilege to pass over Andrew Ely's two lots to a point near the spring, and then with the route Andrew Ely may use himself in order to reach the public road.

Sec. III

Patton Ely, Robert Ely, and Reuben Ely are to have access to the spring to obtain water for family use and the watering of stock.

Sec. IV

The route used to reach the public road, and to reach the spring for the purpose of watering stock, shall be kept closed by gates, the said gates to be made, put up and kept in good repair by Patton Ely, Robert Ely and Reuben Ely.

Sec. V

If the said Patton, Robert and Reuben Ely fail to comply with Section IV, then the privileges and rights accorded them in Sections I, II and III shall be void.

Note:--The courses given in this report are on the present
"Magnetic-Bearing."

The Measurements are horizontal.

All of which is respectfully submitted, this the 6th day of
April, 1907.

| | |
|-----------------------|------------------|
| <u>M. M. Speak.</u> | } Commissioners. |
| <u>S. E. Thompson</u> | |
| <u>G. F. Smith</u> | |

Costs.

| | | | |
|---------------------------|---|------------------------|---------|
| Comm. mission- ers. | { | M. M. Speak, surveyor. | \$10.00 |
| | | S. E. Thompson, | \$4.00 |
| | | G. F. Smith, | \$4.00 |

Paid by Andrew Ely, \$3.50
" " Patton Ely \$8.00

| | | | |
|----------|---|--------------|--------|
| Chairmen | { | Mae. Ely, | \$2.00 |
| | | Sam. Lawton, | \$2.00 |

| | | |
|---------|-------------|---------|
| J. P. { | Harve Bales | \$1.25 |
| | Total, | \$23.25 |

Andrew Ely, et al,
vs. / In Chancery.
Comis. Report.
Robert Ely, et al
Filed Apr. 18, 1907.
H. D. Ewing, Clerk.

Record in
H. B. 46, P. 244
Examined Dec 17, 1907
Audited

The Commonwealth of Virginia,

To the Sheriff of the County of Lee, Greeting:

WE COMMAND YOU, That you summon

Robert Ely and Reuben Ely

to appear at the Clerk's office of the Circuit Court of the County of Lee, at rules to be held for the said court, on the *1st* Monday in *July*, 190*7*, to answer a bill in chancery exhibited against *Thermy*

by *Patton Ely, Andrew Ely and Elizabeth J. Ely.*

And have then there this writ. Witness, H. C. T. EWING, Clerk of our said Court, at the court-house, the *11th* day of *January*, 190*7*, and 1*31* year of the Commonwealth.

A Copy, Teste:

H. C. T. Ewing, Clerk.

_____, Clerk.

Patton Ely, et al.

VS

SUBPENA
IN
CHANCERY.

Robert Ely, et al.

W. G. Ely, p. q

To 1st July. Rules.

Circuit Court.
1907.